IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9014 of 1998

For Approval and Signature:

HON'BLE MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KAMLABEN R RAJPUT

Versus

GOVERNMENT OF GUJARAT

Appearance:

1. Special Civil Application No. 9014 of 1998

MR BS BRAHMBHATT for Petitioner No. 1

MR PRADIP D BHATE A.G.P. for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 17/02/2004

ORAL JUDGEMENT

The petitioner was appointed as water server vide order dated 11th March, 1980 which was made effective from 1st March, 1980 on the monthly salary of Rs.150=00.

She was appointed in the office of the Mamlatdar at Daskroi Taluka in Ahmedabad District. The post on which she was appointed was revised and made permanent post vide order dated 10th October, 1973 by the District Collector, Ahmedabad. In view of the Circular dated 26th December, 1980, issued by the Finance Department of the State Government, directing Heads of all the Departments to make appointment of the part timers working in their departments continuously for three years or more on permanent basis and make them permanent in that class. The procedure to appoint the petitioner on permanent post in Class-IV got started since 9th October, 1992 and she was called upon to furnish certain documents and furnish certain information to the office of District Collector, Ahmedabad. It also appears that in this behalf certain correspondence took place between the Personal Secretary & Deputy Secretary, Revenue Department, Government of Gujarat. Ultimately, since, nothing materialized in favour of the petitioner, she has approached this Court by way of this petition. It is stated that even today, she has been working as part time employee.

2. In Special Civil Application No. 8917 of 1998 and its cognate matters, wherein I have considered identical issue based on the aforesaid Circular of the Finance Department and decided that if the employees get covered under the Circular, they should be considered for appointment on permanent post upon availability of such post in Class in which they are working and in accordance with Recruitment Regulations. The present issue directly gets covered under the said judgment.

2.1. Mr. Pradip Bhate learned A.G.P. appearing for the respondents has not been able to show any distinguishing feature. Moreover, no counter affidavit-in-reply has been filed to challenge the averments made in this petition.

3. In view of the above, the respondents are directed to take appropriate action to consider them for absorption on permanent post, if such post is vacant in that Class in which she has been working in accordance with her claim, in the matter of seniority and the Regulations. Appointment should not be denied on the ground of overage or on the ground that it may amount to giving a back-door entry. This exercise to be carried out as early as possible and in any case not later than 30th May, 2004. If need be, the petitioner can make appropriate representation, which will be considered in in light of this judgment, and in particular, the direction given therein.

This petition is partly allowed allowed. Rule is made absolute to the aforesaid extent with order as to costs.

[AKSHAY H. MEHTA, J.]

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